

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Washington, D.C.

PRO WORKS CONTRACTING, INC.

and

Cases 21-CA-120477  
21-CA-121946

IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON WORKERS,  
AFL-CIO

**MOTION FOR DEFAULT JUDGMENT**

Counsel for the General Counsel, National Labor Relations Board (General Counsel), respectfully moves for default judgment in the above-captioned cases and for a finding that the allegations of the underlying consolidated complaint be deemed admitted and found to be true, and requests the Board to make findings of fact and conclusions of law without a hearing, finding and concluding that:

1. Respondent was served with the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing on August 6, 2014, pursuant to Section 102.15 of the Board's Rules and Regulations and Section 10(b) of the National Labor Relations Act.
2. Respondent has not filed any answer to the Consolidated Complaint as required by the Board's Rules and Regulations, Section 102.20, and has been notified of the necessity for filing an answer.
3. All allegations of the Consolidated Complaint shall be deemed to be admitted to be true and should be so found by the Board.

4. An appropriate remedial order should be entered against Respondent.

True and correct copies of the documents upon which this motion is based are attached as exhibits and made part of this motion.

1. A copy of the original charge in Case 21-CA-120477, mailed to Respondent by regular mail on January 14, 2014, along with the Notice regarding the filing of the charge, and the Affidavit of Service (attached collectively as Exhibit 1).

2. A copy of the original charge in Case 21-CA-121946, mailed to Respondent by regular mail on February 5, 2014, and re-served on March 4, 2014,<sup>1</sup> along with the Notices regarding the filing of the charge, and the Affidavits of Service (attached collectively as Exhibit 2).

3. A copy of the July 23, 2014, partial dismissal letter issued by Region 21 in Cases 21-CA-120477 and 21-CA-121946 (attached as Exhibit 3).

4. A copy of the first amended charge in Case 21-CA-120477, mailed to Respondent by regular mail on July 28, 2014, along with the Notice regarding the filing of the charge, and the Affidavit of Service (attached collectively as Exhibit 4).

5. A copy of the first amended charge in Case 21-CA-121946, mailed to Respondent by regular mail on July 28, 2014, along with the Notice regarding the filing of the charge, and the Affidavit of Service (attached collectively as Exhibit 5).

6. A copy of the July 30, 2014 partial dismissal letter issued by Region 21 in Cases 21-CA-120477 and 21-CA-121946 (attached as Exhibit 6).

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<sup>1</sup> The General Counsel alleges that as of February 5, 2014, agents of Respondent occupied the address listed in the February 5, 2014 Affidavit of Service. Nevertheless, the Region re-served a copy of the charge on Respondent, at its known address, on March 4, 2014. Thus, service is, at a minimum, effective by the March 4, 2014 service.

7. A copy of the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing mailed to Respondent by certified mail on August 6, 2014, along with the Affidavit of Service and the green certified return receipt card (attached collectively as Exhibit 7).

8. Counsel for the General Counsel's letter to Respondent dated August 28, 2014, emailed and mailed to Respondent, notifying Respondent of the failure to file an answer to the Consolidated Complaint, and of Counsel for the General Counsel's intention to file a motion with the Board if an answer is not filed (attached collectively as Exhibit 8).

9. A copy of Respondent's request for an extension of time to file an answer, and the subsequently-issued Order extending time for filing an answer to consolidated complaint, which Order was mailed to Respondent by regular mail on September 3, 2014 (attached as Exhibit 9).

10. Counsel for the General Counsel's letter to Respondent dated September 12, 2014, emailed and mailed to Respondent, notifying Respondent of the failure to file an answer to the Consolidated Complaint, and of Counsel for the General Counsel's intention to file a motion with the Board if an answer is not filed (attached collectively as Exhibit 10).

## **ARGUMENT**

### **I. The Motion for Default Judgment should be granted.**

The Board has held that the provisions of Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, governing the filing of answers by respondents to complaints, have the force and effect of law. Thus, if a party charged with

an unfair labor practice in a complaint does not file an answer within the time and in the manner prescribed by the Board's Rules and Regulations, all allegations in the complaint shall be deemed to be admitted to be true and have been so found by the Board.

Further, judgment may be rendered on the basis of the complaint alone pursuant to Board precedent. Liquid Carbonic Corporation, 116 NLRB 795, 797 (1956); Modern Angel, Inc., 258 NLRB 1216 (1981); Domestic Steel Sales Co., Inc., 258 NLRB 785 (1981); Cray Construction Group, 341 NLRB 428 (2004).

### **REQUESTED REMEDY**

A. That Respondent, its officers, agents, successors, and assigns be ordered to:

1. Cease and desist from:

- (a) interrogating employees about their level of union support or activity.
- (b) threatening employees with unspecified reprisals or job loss if they choose to be represented by or support a union.
- (c) terminating employees because of their union membership or support or other protected concerted activities.
- (d) telling employees that they have been terminated for engaging in union and/or protected concerted activities.
- (e) in any like or related manner, interfering with, restraining or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action:

- (a) Offer Michael Choma, Robert Whitman, and Ismael Covarrubias

immediate and full reinstatement to their former jobs, or if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and/or privileges previously enjoyed.

(b) Make Michael Choma, Robert Whitman, and Ismael Covarrubias whole for the wages and other benefits they lost because of their terminations, plus interest, and for any adverse tax consequences of receiving a lump sum backpay award covering more than one calendar year, if applicable.

(c) Provide Region 21 with all books and records in Respondent's possession deemed necessary by the Region in order for Region 21 to determine and calculate the make-whole remedies described above in paragraph 2(b).

(d) File a report with the Social Security Administration allocating backpay for Michael Choma, Robert Whitman, and Ismael Covarrubias to the appropriate quarters.

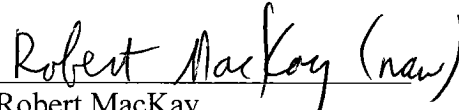
(e) Remove from its files all references to the terminations of Michael Choma, Robert Whitman, and Ismael Covarrubias, and notify these employees in writing that this has been done and that their discharges will not be used against them in any way.

(f) Post an appropriate notice, and mail copies of the notice to the three discriminates at their last known addresses.

(g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated at Los Angeles, California, this 22nd day of September, 2014.

Respectfully submitted,

  
Robert MacKay  
Counsel for the General Counsel  
National Labor Relations Board  
Region 21

Attachments

## EXHIBIT 1

FORM EXEMPT UNDER 44 U.S.C. 3612

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case  
21-CA-120477Date Filed  
1-13-14

## INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer SEE ATTACHMENT		b. Tel. No. SEE ATTACHMENT
		c. Cell No.
		f. Fax No. SEE ATTACHMENT
d. Address (Street, city, state, and ZIP code) SEE ATTACHMENT	e. Employer Representative SEE ATTACHMENT	g. e-Mail
		h. Number of workers employed 5+
i. Type of Establishment (factory, mine, wholesaler, etc.) Iron Workers Contractor	j. Identify principal product or service Iron Construction	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the last six months the above named employers have terminated an employee on account of his union and or protected activity.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Iron Workers Local 229		
4a. Address (Street and number, city, state, and ZIP code) 5155 Mercury Point San Diego, CA 92111		4b. Tel. No. (858) 571-5238
		4c. Cell No.
		4d. Fax No. (858) 571-5238
		4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, AFL-CIO		
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By <u>David A. Rosenfeld</u> (signature of representative or person making charge)		Tel. No. (510) 337-1001
		Office, if any, Cell No.
Address: Weinberg, Roger & Rosenfeld 1001 Marina Village Parkway, Suite 200 Alameda CA 94501		Fax No. (510) 337-1023
01/10/2014 (date)		e-Mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT



a. Name of Employer: Russell Coker, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

Employer Representative: Tom Coker

a. Name of Employer: Pro Works Contracting, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVE STE 105  
SANTEE, CA 92071

Business Phone Number: (760) 212-5281 and/or (619) 596-3700

Employer Representative: ANSON DAVID DEREK FROST

1/748147

[illegible]



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (213)894-5204  
Fax: (213)894-2778

January 14, 2014

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

Re: RUSSELL COKER, INC. AND PRO  
WORKS CONTRACTING, INC.  
Case 21-CA-120477

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney ROBERT MACKAY whose telephone number is (619)557-6239. The mailing address is 555 West Beech Street, Suite 418, San Diego, CA 92101-2940. If this Board agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

January 14, 2014

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

**Procedures:** We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



/s/OLIVIA GARCIA  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

OG/hta

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**RUSSELL COKER, INC. AND PRO WORKS  
CONTRACTING, INC.**

Charged Party

and

**IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON  
WORKERS, AFL-CIO**

Charging Party

**Case 21-CA-120477**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 14, 2014, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

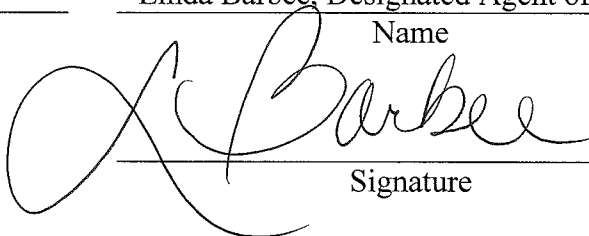
PRO WORKS CONTRACTING, INC.  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

January 14, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name



Signature

## EXHIBIT 2

FORM EXEMPT UNDER 44 U.S.C. 3512

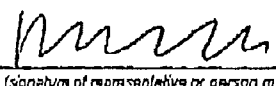
INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case  
21-CA-121946Date Filed  
2-4-14

## INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer  SEE ATTACHMENT		b. Tel. No. SEE ATTACHMENT
		c. Cell No.
		f. Fax No. SEE ATTACHMENT
d. Address (Street, city, state, and ZIP code)  SEE ATTACHMENT	e. Employer Representative  SEE ATTACHMENT	g. e-Mail
		h. Number of workers employed 5+
i. Type of Establishment (factory, mine, wholesaler, etc.)  Iron Workers Contractor	j. Identify principal product or service  Iron Construction	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsections (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  Within the last six months the above named employers have refused to hire and/or discharged employees on account of their union and or protected activity.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number)  Iron Workers Local 229		
4a. Address (Street and number, city, state, and ZIP code)  5155 Mercury Point San Diego, CA 92111		4b. Tel. No. (858) 571-5238
		4c. Cell No.
		4d. Fax No. (858) 571-5238
		4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, AFL-CIO		
6. DECLARATION  I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief,  By  (Signature of representative or person making charge)		Tel. No. (510) 337-1001
Address: Weinberg, Roger & Rosenfeld  1001 Marina Village Parkway, Suite 200 Alameda CA 94501		Office, if any, Cell No.
		Fax No. (510) 337-1023
		e-Mail
		2/042014 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

ATTACHMENT TO UNFAIR LABOR PRACTICE CHARGE

a. Name of Employer: Russell Coker, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

Tel. No.: (619) 449-4459

Employer Representative: Tom Coker

---

a. Name of Employer: Pro Works Contracting, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVE STE 105  
SANTEE, CA 92071

Business Phone Number: (760) 212-5281 and/or (619) 596-3700

Employer Representative: ANSON DAVID DEREK FROST

1751327



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (213)894-5204  
Fax: (213)894-2778

February 5, 2014

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

Re: RUSSELL COKER, INC.; PRO WORKS  
CONTRACTING, INC.  
Case 21-CA-121946

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney ROBERT MACKAY whose telephone number is (619)557-6239. The mailing address is 555 West Beech Street, Suite 418 San Diego, CA 92101-2940. If this Board agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

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**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.



February 5, 2014

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



/s/OLIVIA GARCIA  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

OG/hta

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**RUSSELL COKER, INC.; PRO WORKS  
CONTRACTING, INC.**

Charged Party

and

**IRON WORKERS LOCAL 229,  
INTERNATIONAL ASSOCIATION OF BRIDGE,  
STRUCTURAL, ORNAMENTAL AND  
REINFORCING IRON WORKERS, AFL-CIO**

Charging Party

**Case 21-CA-121946**

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9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

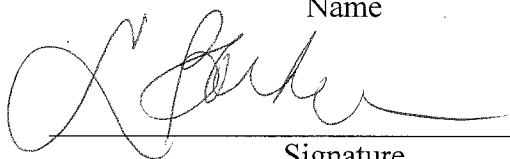
PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

February 5, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name



Signature



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (213)894-5204  
Fax: (213)894-2778

March 4, 2014

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

Re: RUSSELL COKER, INC.; PRO WORKS  
CONTRACTING, INC.  
Case 21-CA-121946

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**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts

RUSSELL COKER, INC.; PRO WORKS - 3 -  
CONTRACTING, INC.  
Case 21-CA-121946

March 4, 2014

We can provide assistance for persons with limited English proficiency or disability.  
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Olivia Garcia".

OLIVIA GARCIA  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

OG/hta

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**RUSSELL COKER, INC.; PRO WORKS  
CONTRACTING, INC.**

Charged Party

and

**IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON  
WORKERS, AFL-CIO**

Charging Party

**Case 21-CA-121946**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 4, 2014, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

March 4, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name



Signature

## EXHIBIT 3



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (213)894-5200  
Fax: (213)894-2778

July 23, 2014

DAVID A. ROSENFELD, ATTORNEY  
WEINBERG, ROGER & ROSENFELD  
1001 MARINA VILLAGE PARKWAY, SUITE 200  
ALAMEDA, CA 94501-6430

Re: RUSSELL COKER, INC. AND PRO  
WORKS CONTRACTING, INC.  
Case 21-CA-120477  
Case 21-CA-121946

Dear Mr. Rosenfeld:

We have carefully investigated and considered your charges that RUSSELL COKER, INC., PRO WORKS CONTRACTING, INC. and PRO WORKS CONTRACTING INC have violated the National Labor Relations Act.

**Decision to Partially Dismiss:** Your charges allege, in part, that Charged Party Russell Coker, Inc. ("RCI") violated Section 8(a)(1) and (3) of the Act by terminating employees (Michael Choma, Robert Whitman, and Ismael Covarrubias) in retaliation for their union and/or protected, concerted activities. However, the Region concluded that the employees at issue were employed solely by Pro Works Contracting, Inc. ("Pro Works"), not RCI. In this regard, there is insufficient evidence to support the Union's assertion that RCI and Pro Works are alter egos, or that Pro Works is a successor employer to RCI. Moreover, the evidence is insufficient to establish common ownership, common licenses, accounts, or the like, or any common customers between RCI and Pro Works. In addition, Pro Works did not take over any of RCI's contracts before or after RCI went out of business. The Region also noted that Pro Works was in business prior to the allegations of the alleged affiliation, and Pro Works provides other services besides reinforcing steel. Although the Union alleges that the former RCI owners and/or office staff have worked for, or are now performing work for Pro Works, that is insufficient to establish a legal relationship. Thus, the Region concluded that further proceedings, as they pertain to Charged Party RCI, are not warranted.

However, this decision in no way affects the remaining portions of the charges, alleging that Charged Party Pro Works violated Section 8(a)(1) and (3) of the Act by making direct and implicit threats of reprisal and retaliation for engaging in union and concerted activities; interrogating its employees about their union support; and terminating employees Michael Choma, Robert Whitman, and Ismael Covarrubias in retaliation for their union and protected, concerted activities

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date:** The appeal is due on **August 6, 2014**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than August 5, 2014. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before August 6, 2014**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after August 6, 2014, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required



RUSSELL COKER, INC. AND PRO  
WORKS CONTRACTING, INC.  
Case 21-CA-120477  
Case 21-CA-121946

- 3 -

July 23, 2014

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/OLIVIA GARCIA  
Regional Director

Enclosure

cc: JOHNNY GALVAN, BUSINESS MANAGER  
IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON  
WORKERS, AFL-CIO  
5155 MERCURY POINT  
SAN DIEGO, CA 92111

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

OG/fb

## EXHIBIT 4

INTERNET  
FORM NLRB-501  
(2-08)  
UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER  
FIRST AMENDED

DO NOT WRITE IN THIS SPACE	
Case 21-CA-120477	Date Filed 7-28-14

## INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer SEE ATTACHMENT		b. Tel. No. SEE ATTACHMENT
		c. Cell No.
		f. Fax No. SEE ATTACHMENT
d. Address (Street, city, state, and ZIP code) SEE ATTACHMENT	e. Employer Representative SEE ATTACHMENT	g. e-Mail
		h. Number of workers employed 5+
i. Type of Establishment (factory, mine, wholesaler, etc.) Iron Workers Contractor	j. Identify principal product or service Iron Construction	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  Within the last six months the above named employers have terminated an employee on account of his union and or protected activity. Within the last six months the above named employers have terminated Mike Choma because of his Union and/or protected activity. The employer has made direct and implicit threats of reprisals in retaliation against employees because of their Union and/or protected activities and has also engaged in Interrogation of employees.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number)  Iron Workers Local 229		
4a. Address (Street and number, city, state, and ZIP code)  5155 Mercury Point San Diego, CA 92111		4b. Tel. No. (858) 571-5238
		4c. Cell No.
		4d. Fax No. (858) 571-5238
		4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, AFL-CIO		
6. DECLARATION  I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.  By <u>David A. Rosenfeld</u> (signature of representative or person making charge)  Address: Weinberg, Roger & Rosenfeld  1001 Marina Village Parkway, Suite 200 Alameda CA 94501		Tel. No. (510) 337-1001 Office, if any, Cell No. Fax No. (510) 337-1023 e-Mail  07/24/2014 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

**ATTACHMENT TO FIRST AMENDED UNFAIR LABOR PRACTICE CHARGE**  
**CASE NO.: 21-CA-120477**

a. Name of Employer: Russell Coker, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

Tel. No.: (619) 449-4459

Employer Representative: Tom Coker

---

a. Name of Employer: Pro Works Contracting, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVE STE 105  
SANTEE, CA 92071

Business Phone Number: (760) 212-5281 and/or (619) 596-3700

Employer Representative: ANSON DAVID DEREK FROST

135681/774032



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (213)894-5200  
Fax: (213)894-2778



Download  
NLRB  
Mobile App

July 28, 2014

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

Re: RUSSELL COKER, INC. AND PRO  
WORKS CONTRACTING, INC.  
Case 21-CA-120477

Dear Sir or Madam:

Enclosed is a copy of the first amended charge that has been filed in this case.

**Investigator:** This charge is being investigated by Field Attorney ROBERT MACKAY whose telephone number is (619)557-6239. The mailing address is 555 W Beech St Ste 418, San Diego, CA 92101-2940. If the agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

**Presentation of Your Evidence:** As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

**Procedures:** Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

/S/OLIVIA GARCIA  
Regional Director

Enclosure: Copy of first amended charge

OG/hta

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**RUSSELL COKER, INC. AND PRO WORKS  
CONTRACTING, INC.**

Charged Party

and

**IRON WORKERS LOCAL 229,  
INTERNATIONAL ASSOCIATION OF BRIDGE,  
STRUCTURAL, ORNAMENTAL AND  
REINFORCING IRON WORKERS, AFL-CIO**

Charging Party

**Case 21-CA-120477**

**AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 28, 2014, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

July 28, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name

/S/Linda Barbee

Signature

## EXHIBIT 5

## FIRST AMENDED

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 2012

DO NOT WRITE IN THIS SPACE

Case 21-CA 121946

Date Filed 7-28-14

FIRST AMENDED

## INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer SEE ATTACHMENT		b. Tel. No. SEE ATTACHMENT
		c. Cell No.
		f. Fax No. SEE ATTACHMENT
d. Address (Street, city, state, and ZIP code) SEE ATTACHMENT	e. Employer Representative SEE ATTACHMENT	g. e-Mail
		h. Number of workers employed 5+
i. Type of Establishment (factory, mine, wholesaler, etc.) Iron Workers Contractor	j. Identify principal product or service Iron Construction	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)		
Within the last six months the above named employers have refused to hire and/or discharged employees on account of their union and/or protected activity. Within the last six months Pro Works has terminated two employees Robert Whitman and Ismael Covarublas. The employer furthermore has interrogated employees and threatened reprisals and retaliation because of Union and/or protected concerted activities.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number)		
Iron Workers Local 229		
4a. Address (Street and number, city, state, and ZIP code) 5155 Mercury Point San Diego, CA 92111		4b. Tel. No. (858) 571-5238
		4c. Cell No.
		4d. Fax No. (858) 571-5238
		4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, AFL-CIO		
6. DECLARATION		Tel. No. (510) 337-1001
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No.
By <u>David A. Rosenfeld</u> (signature of representative or person making charge)	David A. Rosenfeld, Attorney (Print type name and title or office, if any)	Fax No. (510) 337-1023
Address: Weinberg, Roger & Rosenfeld		e-Mail
1001 Marina Village Parkway, Suite 200 Alameda CA 94501		
July 24, 2014 (date)		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT



ATTACHMENT TO FIRST AMENDED UNFAIR LABOR PRACTICE CHARGE  
CASE NO.: 21-CA-121946

a. Name of Employer: Russell Coker, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

Tel. No.: (619) 449-4459

Employer Representative: Tom Coker

---

a. Name of Employer: Pro Works Contracting, Inc.  
9883 Chocolate Summit Drive  
El Cajon, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVE STE 105  
SANTEE, CA 92071

Business Phone Number: (760) 212-5281 and/or (619) 596-3700

Employer Representative: ANSON DAVID DEREK FROST



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (213)894-5200  
Fax: (213)894-2778



Download  
NLRB  
Mobile App

July 28, 2014

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

Re: RUSSELL COKER, INC.; PRO WORKS  
CONTRACTING, INC.  
Case 21-CA-121946

Dear Sir or Madam:

Enclosed is a copy of the first amended charge that has been filed in this case.

**Investigator:** This charge is being investigated by Field Attorney ROBERT MACKAY whose telephone number is (619)557-6239. The mailing address is 555 W Beech St Ste 418, San Diego, CA 92101-2940. If the agent is not available, you may contact Resident Officer STEVEN SORENSEN whose telephone number is (619)557-6559.

**Presentation of Your Evidence:** As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

**Procedures:** Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

/S/OLIVIA GARCIA  
Regional Director

Enclosure: Copy of first amended charge

OG/hta

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**RUSSELL COKER, INC.; PRO WORKS  
CONTRACTING, INC.**

Charged Party

and

**IRON WORKERS LOCAL 229,  
INTERNATIONAL ASSOCIATION OF BRIDGE,  
STRUCTURAL, ORNAMENTAL AND  
REINFORCING IRON WORKERS, AFL-CIO**

Charging Party

**Case 21-CA-121946**

**AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 28, 2014, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING INC  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

July 28, 2014

Date

Linda Barbee, Designated Agent of NLRB

Name

/S/Linda Barbee

Signature

## EXHIBIT 6



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (213)894-5200  
Fax: (213)894-2778

July 30, 2014

DAVID A. ROSENFELD, ATTORNEY AT LAW  
WEINBERG, ROGER & ROSENFELD  
1001 MARINA VILLAGE PARKWAY, SUITE 200  
ALAMEDA, CA 94501-6430

Re: RUSSELL COKER, INC. AND PRO  
WORKS CONTRACTING, INC.  
Cases 21-CA-120477  
21-CA-121946

Dear Mr. Rosenfeld:

We have carefully investigated and considered your amended charges that RUSSELL COKER, INC., PRO WORKS CONTRACTING, INC. and PRO WORKS CONTRACTING INC have violated the National Labor Relations Act.

**Decision to Partially Dismiss:** Your amended charges allege, in part, that Charged Party Russell Coker, Inc. ("RCI") violated Section 8(a)(1) and (3) of the Act by terminating employees (Michael Choma, Robert Whitman, and Ismael Covarrubias) in retaliation for their union and/or protected, concerted activities. However, the Region concluded that the employees at issue were employed solely by Pro Works Contracting, Inc. ("Pro Works"), not RCI. In this regard, there is insufficient evidence to support the Union's assertion that RCI and Pro Works are alter egos, or that Pro Works is a successor employer to RCI. Moreover, the evidence is insufficient to establish common ownership, common licenses, accounts, or the like, or any common customers between RCI and Pro Works. In addition, Pro Works did not take over any of RCI's contracts before or after RCI went out of business. The Region also noted that Pro Works was in business prior to the allegations of the alleged affiliation, and Pro Works provides other services besides reinforcing steel. Although the Union alleges that the former RCI owners and/or office staff have worked for, or are now performing work for Pro Works, that is insufficient to establish a legal relationship. Thus, the Region concluded that further proceedings, as they pertain to Charged Party RCI, are not warranted.

However, this decision in no way affects the remaining portions of the charges, alleging that Charged Party Pro Works violated Section 8(a)(1) and (3) of the Act by making direct and implicit threats of reprisal and retaliation for engaging in union and concerted activities; interrogating its employees about their union support; and terminating employees Michael Choma, Robert Whitman, and Ismael Covarrubias in retaliation for their union and protected, concerted activities.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the

enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date:** The appeal is due on **August 13, 2014**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than August 12, 2014. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before August 13, 2014**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202) 273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after August 13, 2014, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at

RUSSELL COKER, INC. AND PRO  
WORKS CONTRACTING, INC.  
Cases 21-CA-120477  
21-CA-121946

- 3 -

July 30, 2014

a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



OLIVIA GARCIA  
Regional Director

Enclosure

cc: JOHNNY GALVAN, BUSINESS MANAGER  
IRON WORKERS, LOCAL 229,  
INTERNATIONAL ASSOCIATION OF  
BRIDGE, STRUCTURAL, ORNAMENTAL  
AND REINFORCING IRON WORKERS,  
AFL-CIO  
5155 MERCURY POINT  
SAN DIEGO, CA 92111

RUSSELL COKER, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
9883 CHOCOLATE SUMMIT DRIVE  
EL CAJON, CA 92021

PRO WORKS CONTRACTING, INC.  
10612 PROSPECT AVENUE, SUITE 105  
SANTEE, CA 92071

OG/cw

## EXHIBIT 7



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21

PRO WORKS CONTRACTING, INC.

and

Cases 21-CA-120477  
21-CA-121946

IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON WORKERS,  
AFL-CIO

ORDER CONSOLIDATING CASES,  
CONSOLIDATED COMPLAINT  
AND  
NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 21-CA-120477 and 21-CA-121946, which are based on charges filed by Iron Workers Local 229, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, AFL-CIO (Union), against Pro Works Contracting, Inc. (Respondent), are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. (the Act), and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below:

1. (a) The charge in Case 21-CA-120477 was filed by the Union on January 13, 2014, and a copy was served on Respondent by regular mail on January 14, 2014.

(b) The first amended charge in Case 21-CA-120477 was filed by the Union on July 28, 2014, and a copy was served on Respondent by regular mail on July 28, 2014.

(c) The charge in Case 21-CA-121946 was filed by the Union on February 4, 2014, and a copy was served on Respondent by regular mail on February 5, 2014, and again on March 4, 2014.

(d) The first amended charge in Case 21-CA-121946 was filed by the Union on July 28, 2014, and a copy was served on Respondent by regular mail on July 28, 2014.

2. (a) At all material times, Respondent, a California corporation, with an office and place of business located at 10612 Prospect Avenue, Suite 105, Santee, California, has been engaged in the business of general contracting and steel reinforcement subcontracting in the building and construction industry.

(b) During the 12-month period ending June 30, 2014, a representative period, Respondent, in conducting its operations described above in paragraph 2(a), provided services valued in excess of \$50,000 to Lusardi Construction Company (Lusardi), an enterprise within the State of California.

(c) At all material times, Lusardi, a California corporation, with an office and a place of business located at 1570 Linda Vista Drive, San Marcos, California, has been engaged in the business of general contracting in the building and construction industry.

(d) During the 12-month period ending June 30, 2014, a representative period, Lusardi, in conducting its operations described above in paragraph 2(c), purchased and received at its San Marcos, California facility goods valued in excess of \$50,000 directly from points outside the State of California.

(e) During the 12-month period ending December 31, 2013, a representative period, Respondent, in conducting its operations described above in paragraph 2(a), provided services valued in excess of \$50,000 to T.B. Penick & Sons, Inc. (T.B. Penick), an enterprise within the State of California.

(f) At all material times, T.B. Penick, a California corporation, with an office and a place of business located at 15435 Innovation Drive, Suite 100, San Diego, California, has been engaged in the business of general contracting in the building and construction industry.

(g) During the 12-month period ending December 31, 2013, a representative period, T.B. Penick, in conducting its operations described above in paragraph 2(f), purchased and received at its San Diego, California facility goods valued in excess of \$50,000 directly from points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act.

Earl Register	President
David Anson	Vice President
Mark Russell	Superintendent/Representative
Tom Coker	Superintendent/Representative
Al Sawyer	Superintendent/Foreman
Brandon Sawyer	Foreman

6. (a) About December 23, 2013, Respondent terminated its employee Michael Choma.

(b) About January 24, 2014, Respondent terminated its employee Robert Whitman.

(c) About January 27, 2014, Respondent terminated its employee Ismael Covarrubias.

(d) Respondent engaged in the conduct described above in paragraphs 6(a) through 6(c) because the named employees of Respondent joined or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

7. About December 23, 2013, Respondent, by Al Sawyer, at Respondent's 22<sup>nd</sup>/Commercial jobsite, implicitly threatened its employees with unspecified reprisals because they engaged in union and concerted activities.

8. About December 23, 2013, Respondent, by Earl Register, at Respondent's 22<sup>nd</sup>/Commercial jobsite,

(a) implicitly threatened its employees with job loss if they engaged in union and concerted activities.

(b) implicitly threatened its employees with unspecified reprisals if they engaged in union and concerted activities.

9. About December 27, 2013, Respondent, by Al Sawyer, during a telephone call, attributed an employee's termination to that employee's union and concerted activities.

10. About January 22, 2014, Respondent, by Brandon Sawyer, at Respondent's 22<sup>nd</sup>/Commercial jobsite, threatened its employees with job loss if they engaged in union and concerted activities.

11. About January 23, 2014, Respondent, by Al Sawyer and Brandon Sawyer, at Respondent's 22<sup>nd</sup>/Commercial jobsite, threatened its employees with job loss if they engaged in union and concerted activities.

12. About January 24, 2014, Respondent, by Brandon Sawyer, at Respondent's 22<sup>nd</sup>/Commercial jobsite, implicitly threatened its employees with job loss if they engaged in union and concerted activities.

13. About January 27, 2014, Respondent, by Al Sawyer and Brandon Sawyer, interrogated its employees about the extent of their union activities.

14. By the conduct described above in paragraphs 6(a) through 6(d), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act

15. By the conduct described above in paragraphs 7 through 13, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

16. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraph 6, the General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination; and that Respondent be required

to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be received by this office on or before August 20, 2014, or postmarked on or before August 19, 2014. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlrb.gov](http://www.nlrb.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the


Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT commencing at 1:00 p.m., PST on December 8, 2014, at a location to be determined later in San Diego, California, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in the consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Los Angeles, California, this 6th day of August, 2014.

  
\_\_\_\_\_  
Olivia Garcia, Regional Director  
National Labor Relations Board  
Region 21  
888 South Figueroa Street, Ninth Floor  
Los Angeles, CA 90017-5449

Attachments

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Cases 21-CA-120477 and 21-CA-121946

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Ste. 105  
Santee, CA 92071

Iron Workers Local 229, International Association of  
Bridge, Structural, Ornamental and Reinforcing Iron  
Workers, AFL-CIO  
5155 Mercury Point  
San Diego, CA 92111

David A. Rosenfeld, Attorney at Law  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Parkway, Ste. 200  
Alameda, CA 94501



## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21

PRO WORKS CONTRACTING, INC.

and

IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON  
WORKERS, AFL-CIO

Cases 21-CA-120477  
21-CA-121946

**AFFIDAVIT OF SERVICE OF: ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING (with forms  
NLRB-4338 and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 6, 2014, I served the above-entitled document(s) by **certified and regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Ste. 105  
Santee, CA 92071  
(7003 3110 0004 5471 5768)

**CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**

Iron Workers Local 229, International Association of  
Bridge, Structural, Ornamental and Reinforcing Iron  
Workers, AFL-CIO  
5155 Mercury Point  
San Diego, CA 92111  
(7003 3110 0004 5471 5775)

**CERTIFIED MAIL**

David A. Rosenfeld, Attorney at Law  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Parkway, Ste. 200  
Alameda, CA 94501

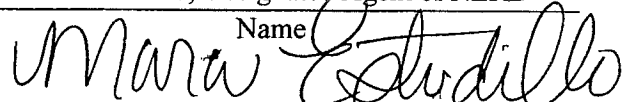
**REGULAR MAIL**

August 6, 2014

Date

Mara Estudillo, Designated Agent of NLRB

Name



Signature

**SENDER: COMPLETE THIS SECTION**

- ☒ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- ☒ Print your name and address on the reverse so that we can return the card to you.
- ☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Ste. 105  
Santee, CA 92071  
21-CA-120477/ Cpt / ME / 8-6-14

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

☒☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

8/8

D. Is delivery address different from item 1?  
If YES, enter delivery address below:☐ Yes☐ No

3. Service Type

☐ Certified Mail®☒ Priority Mail Express™☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7003 3110 0004 5471 5768

PS Form 3811, July 2013

Domestic Return Receipt

UNITED STATES POSTAL SERVICE

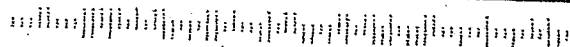


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box •

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
REGION 21  
888 SOUTH FIGUEROA STREET, 9TH FLOOR  
LOS ANGELES, CA 90017-5449  
An Equal Opportunity Employer

OFFICIAL BUSINESS  
Penalty for Private Use, \$300



## EXHIBIT 8

## **MackKay, Robert**

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**From:** MacKay, Robert  
**Sent:** Thursday, August 28, 2014 9:08 AM  
**To:** 'Pro Works'  
**Subject:** Pro Works Contracting, Inc., Cases 21-CA-120477 and 21-CA-121946  
**Attachments:** Pro Works Contracting, Inc., letter regarding Answer.pdf

Dear Mr. Register,

Please see the attached.

Very truly yours,

Robert MacKay

Robert MacKay, Field Attorney  
National Labor Relations Board, Region 21  
San Diego Resident Office  
555 West Beech Street, Room 418  
San Diego, CA 92101  
T: (619) 557-6239  
F: (619) 557-6358  
E: [Robert.MacKay@nrlrb.gov](mailto:Robert.MacKay@nrlrb.gov)



United States Government  
NATIONAL LABOR RELATIONS BOARD

Region 21

888 South Figueroa Street, Ninth Floor

Los Angeles, CA 90017-5449

Telephone: (213) 894-5204

Facsimile: (213) 894-2778

E-mail: Region21@nlrb.gov

Resident Office:

555 W Beech Street - Suite 418

San Diego, CA 92101-2939

Telephone: (619) 557-6184

Facsimile: (619) 557-6358

E-mail: Ressand@nlrb.gov

August 28, 2014

Telephone: (619) 557-6239

Facsimile: (619) 557-6358

VIA EMAIL & REGULAR MAIL

[proworkscontracting@gmail.com](mailto:proworkscontracting@gmail.com)

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Suite 105  
Santee, CA 92071

RE: Pro Works Contracting, Inc.  
Cases 21-CA-120477 and 21-CA-121946

Dear Mr. Register: -

On August 6, 2014, a consolidated complaint issued in the above-captioned cases. As of the present date, Pro Works Contracting, Inc. has not filed an answer to the consolidated complaint in accordance with Section 102.20 and 102.21 of the Board's Rules and Regulations.

If an answer is not filed by **September 4, 2014**, Counsel for the General Counsel will file a Motion for Default Judgment with the Board in Washington, D.C., requesting that the Board find all the allegations in the consolidated complaint deemed admitted as true, and that the Board issue an appropriate order. A copy of the relevant rules regarding filing answers to complaints is enclosed.

Very truly yours,

Robert MacKay  
Field Attorney

Enclosure (Board Rules and Regulations 102.20 and 102.21)

## ANSWER

**Sec. 102.20** *Answer to complaint; time for filing; contents; allegations not denied deemed admitted.*—The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

**Sec. 102.21** *Where to file; service upon the parties; form.*—An original and four copies of the answer shall be filed with the Regional Director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on the other parties. An answer of a party represented by counsel or non-attorney representative shall be signed by at least one such attorney or non-attorney representative of record in his/her individual name, whose address shall be stated. A party who is not represented by an attorney or non-attorney representative shall sign his/her answer and state his/her address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of the attorney or non-attorney party representative constitutes a certificate by him/her that he/she has read the answer; that to the best of his/her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If an answer is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this section an attorney or non-attorney party representative may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

**Sec. 102.22** *Extension of time for filing.*—Upon his own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may by written order extend the time within which the answer shall be filed.

**Sec. 102.23** *Amendment.*—The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the administrative law judge or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the administrative law judge or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the administrative law judge or the Board.



## EXHIBIT 9

## MacKay, Robert

---

**From:** Pro Works [proworkscontracting@gmail.com]  
**Sent:** Thursday, August 28, 2014 4:33 PM  
**To:** MacKay, Robert  
**Cc:** David Anson  
**Subject:** Re: Pro Works Contracting, Inc., Cases 21-CA-120477 and 21-CA-121946

Robert,

At this time we would like to file for an extension as we try to determine what the settlement amount is with the NLRB. I still do not agree with the findings that we terminated employees. They quit and went to work for the Union.

I would like to meet with you next week to determine how to finalize this case against Pro Works Contracting.

Sincerely,

Ear Register

On Thu, Aug 28, 2014 at 9:06 AM, MacKay, Robert <[Robert.MacKay@nlrb.gov](mailto:Robert.MacKay@nlrb.gov)> wrote:

Dear Mr. Register,

Please see the attached.

Very truly yours,

Robert MacKay

Robert MacKay, Field Attorney

National Labor Relations Board, Region 21

San Diego Resident Office

555 West Beech Street, Room 418

San Diego, CA 92101

T: [\(619\) 557-6239](tel:(619)557-6239)

F: [\(619\) 557-6358](tel:(619)557-6358)

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21

PRO WORKS CONTRACTING, INC.

and

Cases 21-CA-120477  
21-CA-121946


IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON WORKERS,  
AFL-CIO

ORDER EXTENDING TIME FOR  
FILING ANSWER TO CONSOLIDATED  
COMPLAINT

At the request of Respondent, and for proper cause shown,

IT IS HEREBY ORDERED that the time for filing an answer to the  
consolidated complaint be, and it hereby is, extended to and including September 10, 2014.  
No further extensions of time will be granted.

DATED at Los Angeles, California, this 3<sup>rd</sup> day of September, 2014.

  
\_\_\_\_\_  
Olivia Garcia, Regional Director  
National Labor Relations Board  
Region 21  
888 South Figueroa Street, Ninth Floor  
Los Angeles, CA 90017-5449

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21

PRO WORKS CONTRACTING, INC.

and

Cases 21-CA-120477  
21-CA-121946

IRON WORKERS LOCAL 229, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL,  
ORNAMENTAL AND REINFORCING IRON  
WORKERS, AFL-CIO

**AFFIDAVIT OF SERVICE OF: ORDER EXTENDING TIME FOR FILING ANSWER  
TO CONSOLIDATED COMPLAINT.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on September 3, 2014, I served the above-entitled document(s) by **regular mail**, upon the following persons, addressed to them at the following addresses:

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Ste. 105  
Santee, CA 92071

Iron Workers Local 229, International Association of  
Bridge, Structural, Ornamental and Reinforcing Iron  
Workers, AFL-CIO  
5155 Mercury Point  
San Diego, CA 92111

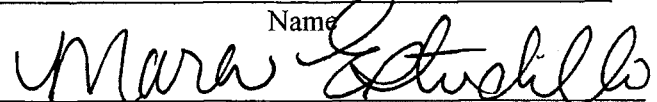
David A. Rosenfeld, Attorney at Law  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Parkway, Ste. 200  
Alameda, CA 94501

September 3, 2014

Date

Mara Estudillo, Designated Agent of NLRB

Name



Signature

## EXHIBIT 10

## **MackKay, Robert**

---

**From:** MacKay, Robert  
**Sent:** Friday, September 12, 2014 9:57 AM  
**To:** 'Pro Works'  
**Subject:** Pro Works Contracting, Inc. / Cases 21-CA-1120477 and 21-CA-121946  
**Attachments:** Pro Works September 12 letter.pdf

Dear Mr. Register,

Please see the attached.

Robert MacKay, Field Attorney  
National Labor Relations Board, Region 21  
San Diego Resident Office  
555 West Beech Street, Room 418  
San Diego, CA 92101  
T: (619) 557-6239  
F: (619) 557-6358  
E: [Robert.MacKay@nrlrb.gov](mailto:Robert.MacKay@nrlrb.gov)



United States Government  
NATIONAL LABOR RELATIONS BOARD

Region 21

888 South Figueroa Street, Ninth Floor

Los Angeles, CA 90017-5449

Telephone: (213) 894-5204

Facsimile: (213) 894-2778

E-mail: Region21@nlrb.gov

Resident Office:

555 W Beech Street - Suite 418

San Diego, CA 92101-2939

Telephone: (619) 557-6184

Facsimile: (619) 557-6358

E-mail: Ressand@nlrb.gov

September 12, 2014

Telephone: (619) 557-6239

Facsimile: (619) 557-6358

VIA EMAIL & REGULAR MAIL

[proworkscontracting@gmail.com](mailto:proworkscontracting@gmail.com)

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Suite 105  
Santee, CA 92071

RE: Pro Works Contracting, Inc.  
Cases 21-CA-120477 and 21-CA-121946

Dear Mr. Register:

On September 3, 2014, the Region issued an Order, extending the time for Pro Works Contracting, Inc. to file an answer to the consolidated complaint, to September 10, 2014. As of the present date, no answer has been filed.

If an answer is not filed by **September 19, 2014**, Counsel for the General Counsel will file a Motion for Default Judgment with the Board in Washington, D.C., requesting that the Board find all the allegations in the consolidated complaint deemed admitted as true, and that the Board issue an appropriate order. Another copy of the relevant rules regarding filing answers to complaints is enclosed. No further requests for extensions of time to file an answer will be granted.

Very truly yours,

Robert MacKay  
Field Attorney

Enclosure (Board Rules and Regulations 102.20 and 102.21)

## ANSWER

**Sec. 102.20** *Answer to complaint; time for filing; contents; allegations not denied deemed admitted.*—The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

**Sec. 102.21** *Where to file; service upon the parties; form.*—An original and four copies of the answer shall be filed with the Regional Director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on the other parties. An answer of a party represented by counsel or non-attorney representative shall be signed by at least one such attorney or non-attorney representative of record in his/her individual name, whose address shall be stated. A party who is not represented by an attorney or non-attorney representative shall sign his/her answer and state his/her address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of the attorney or non-attorney party representative constitutes a certificate by him/her that he/she has read the answer; that to the best of his/her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If an answer is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this section an attorney or non-attorney party representative may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

**Sec. 102.22** *Extension of time for filing.*—Upon his own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may by written order extend the time within which the answer shall be filed.

**Sec. 102.23** *Amendment.*—The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the administrative law judge or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the administrative law judge or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the administrative law judge or the Board.



### STATEMENT OF SERVICE

I hereby certify that a copy of Counsel for the General Counsel's Motion for Default Judgment has been submitted by E-filing to the Board this 22<sup>nd</sup> day of September, 2014.

I hereby certify that a copy of Counsel for the General Counsel's Motion for Default Judgment was served by e-mail and regular mail, on the 22<sup>nd</sup> day of September 2014, on the following parties at the below addresses:

Earl Register, President  
Pro Works Contracting, Inc.  
10612 Prospect Avenue, Ste. 105  
Santee, CA 92071  
(proworkscontracting@gmail.com)

David Rosenfeld, Attorney at Law  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Parkway, Ste. 200  
Alameda, CA 94501  
(drosenfeld@unioncounsel.net)

Dated at Los Angeles, California, this 22<sup>nd</sup> day of September, 2014.

A handwritten signature in black ink, reading "Mara Estudillo". The signature is fluid and cursive, with the first name "Mara" and last name "Estudillo" clearly distinguishable.

Mara Estudillo  
Secretary to the Regional Attorney  
National Labor Relations Board  
Region 21